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11 Attorneys for Defendants

12 THE GAP, INC.; GAP (APPAREL) LLC; GAP

13 INTERNATIONAL SALES, INC.; BANANA

14 REPUBLIC, LLC; and BANANA REPUBLIC

15 (APPAREL) LLC

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18 MICHAEL PALLAGROSI, on behalf of  
19 himself and all others similarly situated,

20 Plaintiffs,

21 vs.

22 THE GAP, INC.; GAP (APPAREL) LLC;  
23 GAP INTERNATIONAL SALES, INC.;  
24 BANANA REPUBLIC, LLC; and BANANA  
25 REPUBLIC (APPAREL) LLC,

26 Defendants.

Case No. 4:17-cv-05905-HSG

**DEFENDANTS THE GAP, INC., GAP  
(APPAREL) LLC, GAP  
INTERNATIONAL SALES, INC.,  
BANANA REPUBLIC LLC, AND  
BANANA REPUBLIC (APPAREL)  
LLC'S NOTICE OF MOTION AND  
MOTION TO DISMISS PLAINTIFF'S  
CLASS ACTION COMPLAINT**

[Memorandum of Point and Authorities filed  
concurrently herewith]

[Proposed] Order lodged concurrently  
herewith]

Date: March 1, 2018

Time: 2:00 p.m.

Judge: Hon. Haywood S. Gilliam, Jr.

Ctrm.: 2 – 4th Floor

Complaint Filed: October 13, 2017

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on March 1, 2018, at 2:00 p.m. or as soon thereafter as this matter may be heard, before the Honorable Haywood S. Gilliam, Jr., in Courtroom 2 of the United States District Court for the Northern District of California, located at 1301 Clay Street, Oakland, California, 94612, Defendants The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC (collectively, “Gap”) will and hereby do move this Court for an order dismissing Plaintiff Michael Pallagrosi’s (“Plaintiff”) Class Action Complaint pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure. Defendants move to dismiss (1) Count I – California Consumers Legal Remedies Act (“CLRA”), (2) Count III – New Jersey Truth-in-Consumer Contract, Warranty, and Notice Act (“TCCWNA”), and (3) Count IV – Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”).

Plaintiff’s individual and class CLRA claims should be dismissed because the CLRA does not apply extraterritorially to Plaintiff because he is a New Jersey resident, who made his purchases in New Jersey and Florida. Additionally, California’s choice of law analysis requires that his claims be pursued under New Jersey and/or Florida law.

Plaintiff’s individual and class TCCWNA claims should be dismissed because the TCCWNA does not apply to the circumstances alleged by Plaintiff.

Plaintiff’s individual and class FDUTPA claims should be dismissed because he fails to plead an “actual injury,” as required by the statute.

This Motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, the records in this case, and such other evidence that may be adduced at the hearing on this matter.

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1 Dated: December 6, 2017

MORGAN, LEWIS & BOCKIUS LLP

2  
3 By /s/ Esther K. Ro

4 Joseph Duffy

Esther K. Ro

Attorneys for Defendants

5 THE GAP, INC., GAP (APPAREL) LLC, GAP  
6 INTERNATIONAL SALES, INC., BANANA  
7 REPUBLIC LLC, and BANANA REPUBLIC  
8 (APPAREL) LLC  
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